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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.405 of 2022 (O&M)

Date of decision: 22.12.2022

Sunil @ Sheelu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashish Naik, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

CRM-50119-2022

Heard.

Allowed as prayed for.

Document (Annexure P-9) is taken on record subject to all
just exceptions.

CRM-M-405-2022 (O&M)

Prayer in this 3rd petition is for grant of regular bail to the
petitioner under Section 439 of the Code of Criminal Procedure (in
short 'Cr.P.C.') in FIR No.512 dated 09.09.2019, for offence punishable
under Sections 307, 148, 149, 323, 506 of the Indian Penal Code, 1860
(in short 'IPC') and 25 of the Arms Act, registered at Police Station City
Sonapat, District Sonapat.

Counsel for the petitioner has submitted that the new
ground for filing this petition is that the petitioner is in custody for the

last 01 year and 06 months and the injured Saurabh, who appeared as PW-1 before the Juvenile Justice Board in the trial of the co-accused namely Sarvesh, has not supported the prosecution version.

Counsel for the petitioner has relied upon the order dated 05.03.2020 passed in CRM-M No.8792 of 2020, vide which the co-accused of the petitioner namely Deepanshu @ Sukha and Abhimanyu have been granted the concession of bail. The operative part of the said order, reads as under:-

“Prayer in this petition is for grant of regular bail in FIR No.512 dated 09.09.2019 under Sections 148, 149, 307, 323, 506 IPC and Section 25 of Arms Act, registered at Police Station City Sonapat.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Amit, when he was sitting in his shop about 10 days before registration of the FIR, some young boys, while holding weapons, came to his shop and attacked him and they were Abhimanyu, Sahil, Ritik, Pankaj and Aman. He had given a complaint to the police, however, no action was taken. It is further stated that on the date of incident, the aforesaid persons again came to his shop; one person was holding a sword, whose name he do not know and another boy of Village Tharu namely Shilu came and asked him who is Amit and then he signalled the others and one person fired a shot, which hit on the hand of his friend Saurabh. Thereafter, the aforesaid boys attacked upon him with lathis, danda and sword and after inflicting the injuries, they fled away.

Learned counsel for the petitioner further submits that the petitioner was not named in the FIR and his name surfaced later on. As per the statement recorded under Section 161 Cr.P.C. of injured Saurabh, in which he has

stated that the person, who was carrying sword, was named as Shilu and the petitioner was not named even in the statement. It is further submitted that the petitioner is a student and in fact, it was a dispute between the complainant and one Sarvesh, as complainant Amit and Saurabh used to tease sister of Sarvesh and in this regard, she has given a complaint to the police on 31.08.2019 but no action was taken. When the sister of Sarvesh approached the higher police officials, FIR No.579 dated 09.10.2019 under Sections 341, 354, 506 IPC was registered at Police Station City Sonapat. It is thus submitted that the petitioner has been falsely roped in the case just because he was known to said Saurabh.

Learned State counsel, on instructions from SI Satvir, has not disputed the factual position, however, submitted that the sword was recovered from the petitioner...”

Counsel for the petitioner has further submitted that while appearing as PW-1, the injured witness Saurabh has stated that he did not have any fight with anybody and do not know anything about the case. In the cross-examination, this witness has further stated that he has not made any complaint to the police regarding the other accused namely Abhimanyu, Sahil, Sagar, Pankaj, Aman and the present petitioner Sheelu. This witness was confronted with the statement made to the police but he has denied the same. Lastly, it is submitted that out of 23 PWs, only 04 PWs have been examined so far and the conclusion of the trial will take some time.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 years, 06 months and 02 days; the co-accused of the petitioner is already released on bail; the custodial interrogation of the petitioner is not required; out of 23 PWs, only 04 PWs have been examined and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

22.12.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No